

REMARKS

Summary

Claims 1-20 stand in this application. Claims 1, 3, 4, 7 and 9 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 1, 3, 4, 7 and 9 in order to facilitate prosecution on the merits.

35 U.S.C. § 112

Claims 3, 4 and 9 have been rejected under 35 U.S.C. § 112 for not particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention. Applicant respectfully traverses the rejection based on the above amendments. Claims 3, 4 and 9 have been amended in accordance with the instructions in the Office Action and, therefore, removal of this rejection is respectfully requested. Applicant further submits that the above amendments and remarks are made to overcome a § 112 rejection and are not made to overcome the cited references. Accordingly, these amendments should not be construed in a limiting manner.

35 U.S.C. § 103

At page 3, paragraph 9 of the Office Action claims 1, 5, 6 and 13-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Number (USPN) 6,996,712 to Perlman et al. ("Perlman") in view of US 2005/0013324 to Leahy et al. ("Leahy"). At page 7, paragraph 23 of the Office Action claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Perlman in view of Leahy and further in view of draft 3G TS 22.100 ("TS 22.100"). At page 7, paragraph 24 of the Office Action claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Perlman in view of Leahy and further in view of draft 3G TS 25.427 ("TS 25.427"). At page 8, paragraph 28 of the Office Action claims 3, 4 and 9-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Perlman in view of Leahy and further in view of draft 3G TS 25.427 ("TS 25.427"). At page 8, paragraph 35 of the Office Action claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Perlman in further view of draft 3G TS 25.427 ("TS 25.427"). Applicant respectfully traverses the rejections, and requests reconsideration and withdrawal of the obviousness rejections.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success

must both be found in the prior art and not based on applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

As recited above, to form a *prima facie* case of obviousness under 35 U.S.C § 103(a) the cited references, when combined, must teach or suggest every element of the claim. See MPEP § 2143.03, for example. Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness because the cited references, taken alone or in combination, fail to teach or suggest every element recited in claims 1-20. Therefore claims 1-20 define over the cited references whether taken alone or in combination. For example, claim 1 recites the following language, in relevant part:

each frame containing authentication information in a spare extension field, or encode each frame with authentication information if the frame does not include authentication information.

According to the Office Action, the missing language is disclosed by Perlman at figure 3, column 3, lines 51-60, column 4, lines 64-66, column 5, lines 53-61 and column 7, lines 50-67. Applicant respectfully disagrees.

Applicant respectfully submits that Perlman fails to disclose the missing language of the claimed subject matter. For example, Perlman at the given cite, in relevant part, states:

When an end station is sending data, the authentication system 14 included therein uses selected information and data bytes from one or more data packets to produce a corresponding set of one or more integrity checks...The end station 12 then sends the data packets and the integrity block over the communications network 16 to one or more recipient end stations 12 through a network interface 15 (FIG. 2) in a known manner.

As discussed above, the authentication system may produce an encrypted integrity block for a single data packet. If the integrity block is included within the data packet, there will be no delay in authenticating the packet.

Alternatively, the system may select data bytes at random from each of the data packets, and include in the integrity block a random number seed value or other information that the recipient needs to reproduce the random byte selections for the various data packets.

Referring now to FIG. 3, when the integrity block is produced for and included in a single data packet, the integrity block may be separated into two parts, namely, the identifiers for the selected integrity check functions and data bytes, and the results of manipulating the data bytes in accordance with the functions.

By way of contrast, the claimed subject matter teaches "each frame containing authentication information in a spare extension field, or encode each frame with authentication information if the frame does not include authentication information." Applicant respectfully submits that this is different than the above recited teaching of Perlman.

Applicant respectfully submits that transmitting one or more integrity checks along with one or more packets, as arguably taught by Perlman, is clearly different than including authentication information in each frame or encoding each frame with authentication information if the frame does not include authentication information as recited in claim 1. Furthermore, while Perlman arguably teaches that the system may produce an encrypted integrity block for a single data packet, Applicant submits that he has been unable to locate any language in Perlman directed to including authentication information in each data packet as recited in claim 1. Therefore, Perlman fails to disclose, teach or suggest the missing language. Applicant respectfully submits that

Leahy, TS 22.100 and TS 25.427 also fail to teach, suggest or disclose the missing language. Consequently, the cited references, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claim 1.

For at least these reasons, Applicant submits that claim 1 is patentable over the cited references, whether taken alone or in combination. In addition, claims 7, 13 and 17 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 7, 13 and 17 are not obvious and are patentable over the cited references for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claims 1, 7, 13 and 17. Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 2-6, 8-12, 14-16 and 18-20 that depend from claims 1, 7, 13 and 17 respectively, and therefore contain additional features that further distinguish these claims from the cited references.

For at least the above reasons, Applicant submits that claims 1-20 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be

necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

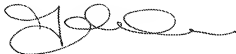
It is believed that claims 1-20 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to deposit account 50-4238.

Respectfully submitted,

KACVINSKY LLC



John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

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Kacvinsky LLC
C/O Intellevate
PO Box 52050
Minneapolis, MN 55402